



City of NORFOLK

C: Director, Department of Public Works

To the Honorable Council
City of Norfolk, Virginia

May 24, 2016

From: David Ricks, Director of Public Works

Subject: Acceptance of temporary construction easement and permanent drainage easement at 7419 Parkdale Drive

Reviewed:

Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 2/6

Approved:

Marcus D. Jones, City Manager

Item Number:

R-4

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description:**

This agenda item is an ordinance to accept a temporary construction easement and a permanent drainage easement at 7419 Parkdale Drive.

IV. **Analysis**

- Acceptance of the easements is necessary to perform proposed storm water conveyance channel improvements to an existing conveyance system that is located in the rear of the subject property. The project will resolve a long standing maintenance challenge. Further, the project will provide credits to meet the City of Norfolk's (the "City's") requirements for load reduction under the Chesapeake Bay TMDL.

V. **Financial Impact**

The ordinance will have no financial impact as the easements are being acquired at no cost. The construction project has been budgeted with Public Works and will also use grant funding awarded to the project under the Stormwater Local Assistance Fund Grant.

VI. **Environmental**

Acceptance of the ordinance will result in environmental benefits as the channel improvements will reduce erosion and provide planting buffers to help filter pollutants from entering the Lafayette River.

VII. Community Outreach/Notification

Property owner has been coordinated with and agreeable to granting easements. Public notification for this agenda item was conducted through the City's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of Public Works and the City Attorney's Office.

Supporting Material from the Department of Public Works:

- Ordinance
- Exhibit A to Ordinance – Exhibit Showing Easement to be Acquired
- Exhibit B to Ordinance – Deed of Easement

Form and Correctness Approved:

By

Office of the City Attorney

Contents Approved:

By

DEPT. Public Works

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING THE CONVEYANCE OF A TEMPORARY CONSTRUCTION EASEMENT AND PERMANENT DRAINAGE EASEMENT BY FALKNER PROPERTIES, LLC TO THE CITY OF NORFOLK AND AUTHORIZING THE CITY MANAGER TO ACCEPT THE EASEMENT ON BEHALF OF THE CITY.

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BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the conveyance of a temporary construction easement and a permanent drainage easement shown on Exhibit A attached hereto, by Falkner Properties, LLC to the City of Norfolk, is hereby accepted and approved.

Section 2:- That the City Manager is authorized to accept a Deed of Easement, attached hereto as Exhibit B, in form approved by the City Attorney, and to do all things necessary and proper to effect the conveyance of the temporary construction easement and the permanent drainage easement to the City of Norfolk.

Section 3:- That this ordinance shall be in effect from and after its adoption.

EXHIBIT A TO ORDINANCE

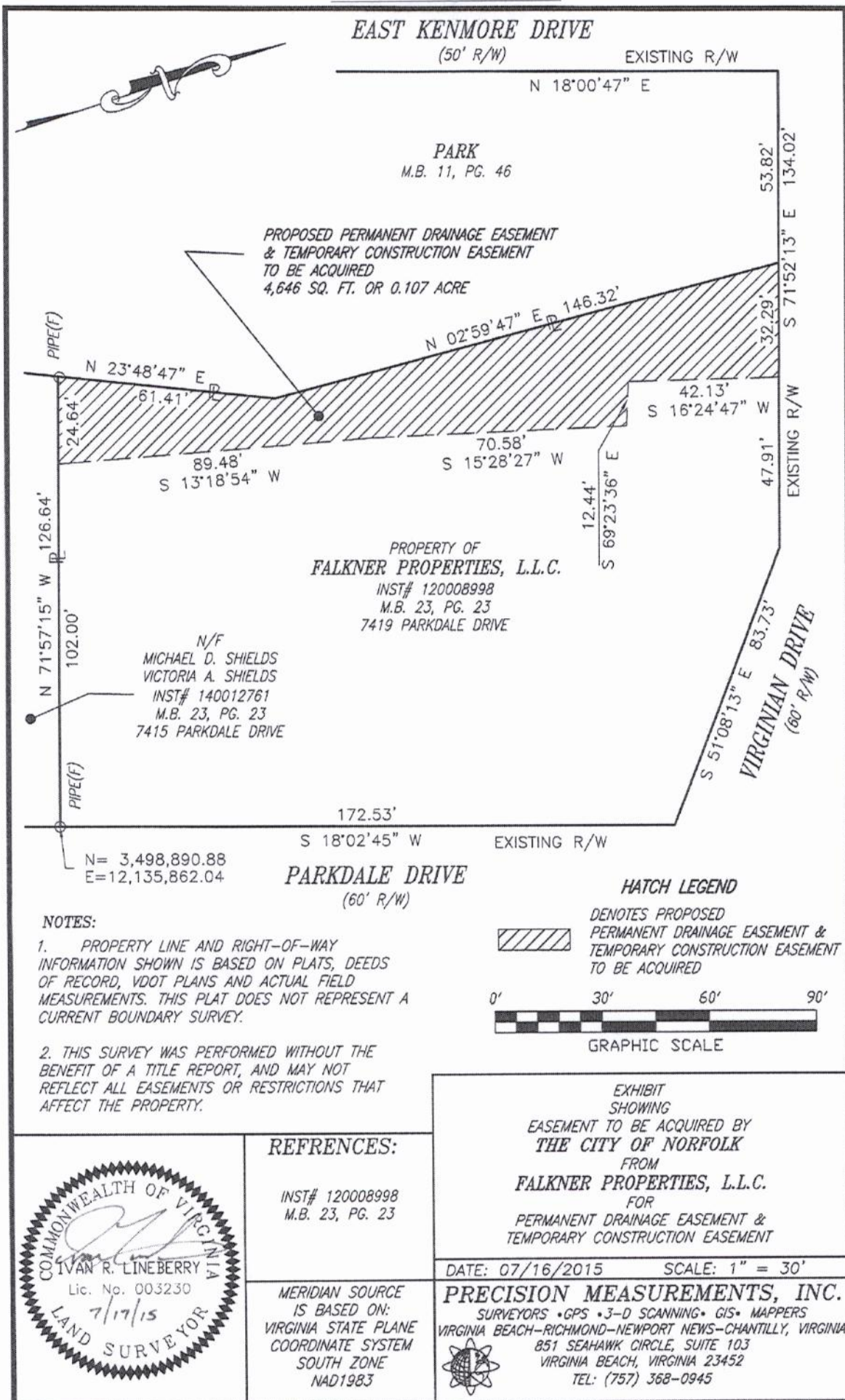


EXHIBIT B TO ORDINANCE

Prepared by: Office of the Norfolk City Attorney
Nathaniel Beaman IV, Deputy City Attorney (VSB#18486)
Return to: Office of the Norfolk City Attorney
Tax Map Reference No.: 4469-0300
Consideration: \$0.00

This Deed is exempt from recordation taxes imposed
by Section 58.1-801 of the Code of Virginia, 1950,
as amended, pursuant to Section 58.1-811(A)(3).

THIS DEED OF EASEMENT, made this ____ day of _____, 2016, by and
between **FALKNER PROPERTIES, LLC**, a Virginia limited liability company, ("Falkner"),
Grantor, and the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of
Virginia, ("City"), **Grantee**, whose address is City Hall Building, 810 Union Street, Norfolk,
Virginia, 23510.

WITNESSETH:

WHEREAS, Falkner is the owner of certain property located in the City of Norfolk,
Virginia, known as 7419 Parkdale Drive, ("Property") as shown on that certain exhibit plat
attached hereto as Exhibit A; and

WHEREAS, the City has undertaken a project known as the Parkdale Drive Channel
Improvement Project ("Project") for the improvement of storm water drainage in the area on and
around the Property; and

WHEREAS, in order to proceed with the Project, the City needs a permanent easement and
a temporary construction easement over a certain portion of the property owned by the Butlers as
shown on Exhibit A; and

WHEREAS, Falkner is agreeable to granting the said easements to the City;

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00), cash in
hand paid, the receipt of which is hereby acknowledged, Falkner does hereby grant and convey to
the City, its successors and assigns, a permanent easement and a temporary construction easement
as shown on Exhibit A.

The permanent easement shall be for the purpose of constructing, maintaining, adding to, replacing or installing storm drainage improvements. The permanent easement is subject to the following conditions:

1. All structures and appurtenant facilities which are installed or placed in the easement shall be and remain the property of the City, its successors and assigns.
2. The City, its officers, agents, and employees shall have full and free use of the said easement for the purposes named, and shall have all rights and privileges reasonably necessary to the utilization of the easement.
3. The City shall have the right to trim, cut and remove trees, shrubbery, fences, structures, or other obstructions or facilities in or near the easement being conveyed, deemed by it to interfere with the proper and efficient construction and maintenance of the storm drainage in the said easement.
4. Falkner reserves the right to make any use of the easement herein granted which may not be inconsistent with the rights herein conveyed or interfere with the use of said easement by the City for the purposes named; provided, however, that Falkner shall not erect any roadway, building, or structure of any kind on the easement without obtaining prior written approval of the City.

The temporary construction easement shall be for the purpose of providing a staging area, temporary work spaces, and construction site access for the City during the entire period of the installation of storm drainage improvements. The temporary construction easement is subject to the following conditions:

1. The term of the temporary construction easement shall be for such period of time as is necessary for the City to complete the Project and the City agrees that the work shall be pursued as diligently and expeditiously as reasonably possible.

2. The City agrees to repair or to pay for any actual damage caused by the City in the exercise of any of the rights granted in this deed, to the extent required by law; provided, however, that the City shall not be liable for any damages caused in the said temporary construction easement by the clearing of any obstacles or obstructions that interfere with the City's use of the easement as set forth herein.

3. At the conclusion of all construction work, the City shall, to the extent reasonably possible, restore the area of the temporary construction easement to its state and condition immediately prior to the commencement of the Project.

The terms, covenants, and provisions set forth herein shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors, and assigns of the parties hereto.

Falkner covenants that it has the right to convey the easements herein granted.

WITNESS the following signatures and seals:

(SIGNATURE PAGES TO FOLLOW)

FALKNER PROPERTIES, LLC

By: _____
Title: _____

COMMONWEALTH OF VIRGINIA,
CITY OF _____, to wit:

I, _____, a Notary Public of the City of _____ in
the Commonwealth of Virginia, whose term of office expires on the ____ day of _____,
20____, do hereby certify that _____, _____ (Title) of Falkner
Properties, LLC, whose name is signed in the foregoing Deed of Easement, has acknowledged the
same before me in my City and State aforesaid.

Given under my hand this ____ day of _____, 2016.

Notary Public
Registration No.: _____

The signature of Marcus D. Jones, City Manager, or his duly authorized Assistant City Manager, is affixed hereto on behalf of the Council of the City of Norfolk, Virginia, pursuant to an ordinance duly adopted by the City Council, to evidence the acceptance of this Deed of Easement by the City, in accordance with Section 15.2-1803, Code of Virginia, 1950, as amended.

CITY OF NORFOLK

By: _____ (SEAL)
City Manager

Attest:

City Clerk

**COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:**

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on the _____ day of _____, 20____, do hereby certify that Marcus D. Jones, City Manager, or his duly authorized Assistant City Manager, and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing Deed of Easement, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of _____, 2016.

Notary Public

Registration No. _____

Contents Approved:

Director of Public Works

Approved as to Form and Correctness:

Deputy City Attorney